



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

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CHICAGO, IL 60604-3590

SEP 27 2012

REPLY TO THE ATTENTION OF:

E-19J

Colonel Luke T. Leonard
U.S. Army Corps of Engineers, Louisville District
P.O. Box 59
Attn: CELRL-PM-P-E
Louisville, Kentucky 40201

RE: Supplemental Draft Environmental Impact Statement for Indianapolis North Flood Damage Reduction, Indianapolis, Marion County, IN; CEQ # 20120201

Dear Colonel Leonard:

The U.S. Environmental Protection Agency has received and reviewed the U.S. Army Corps of Engineers' (USACE) Supplemental Draft Environmental Impact Statement (SDEIS), dated June 2012, for proposed modifications to central Indianapolis flood damage reduction measures previously approved for implementation under USACE's 1996 Indianapolis North Flood Damage Reduction Study Environmental Impact Statement (1996 EIS). This letter provides our comments on the SDEIS, pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act.

The 1996 EIS analyzed flood damage reduction measures to address flooding issues along the White River in central Indianapolis. Specifically, the project studied protection of residential and commercial properties along a three-mile stretch of the White River. The measures that were ultimately approved for implementation in the 1996 EIS and by the 1997 Record of Decision (1997 ROD) included a combination of earthen levees and constructed floodwalls to protect the Indianapolis communities of Monon-Broad Ripple, Warfleigh, and South Warfleigh. The Town of Rocky Ripple withdrew from the project during formulation of the 1996 EIS. As a result, USACE revisited the alignment for a portion of the project, known as the South Warfleigh section, and developed plans to relocate this segment of the project to the south and east of the Town of Rocky Ripple along the 19th Century Indianapolis Citizens Water Canal & Towpath (Canal).

The entire project alignment as previously approved was divided into three phases (Phase 3A, 3B, and 3C) due to funding constraints and real estate acquisitions. Phase 3A, the Warfleigh

section, consists of 7,600 linear feet of floodwall/levee on the existing Warfleigh levee; this section was completed in 2004. Phase 3B, the South Warfleigh Section, includes construction of floodwall and earthen levee along the east bank of the White River from Kessler Boulevard to termination on high ground at the downstream end of the project. The section of Phase 3B from Kessler Boulevard to and through the Riviera Club property was addressed in the 1996 EIS/1997 ROD¹. Phase 3C, the Monon-Broad Ripple section, consists of 4,800 linear feet of floodwall/levee and was completed in 2009.

In early 2011, USACE prepared an Environmental Assessment (2011 EA) to evaluate existing conditions from 2010 and potential impacts associated with modifications to features approved in the 1996 EIS. As a result of the public interest, comments, and concerns received on the 2011 EA, USACE prepared this SDEIS in lieu of finalizing the EA and preparing a Finding of No Significant Impact (FONSI).

This SDEIS was prepared to evaluate alternatives to and impacts from proposed modifications to project features, a proposed realignment of a portion of the South Warfleigh (3B) section², and proposed additional tree clearing along completed portions of Section 3A and Section 3C. The SDEIS also noted the need for alternate mitigation sites than those described in the 1996 EIS as well as additional mitigation requirements due to project changes.

Changes to the Phase 3B South Warfleigh section of the project proposed in the SDEIS were prompted by technical issues. The 1996 EIS and General Reevaluation Report (GRR) showed the floodwall and levee alignment for Phase 3B terminating at the southern end of the Riviera Club property. However, the existing ground elevation at that location is lower than the elevation required to provide a 300-year level of protection³. As a result, the downstream end of the 1996 project alignment would no longer provide the full flood risk management benefits of the recommended plan. As such, USACE determined that the downstream end of the floodwall needed to be extended beyond the southern limits of the Riviera Club property and terminate at a higher existing ground elevation in order to provide a 300-year level of protection. The SDEIS evaluated five (5) build alternatives as well as a no-action alternative (which would continue the acceptance of the original plans as evaluated and approved in the 1996 EIS).

The SDEIS also proposes tree clearing in completed Phase 3A and 3C to meet current levee safety standards required for technical certification of the project by the Federal Emergency Management Agency (FEMA). Certification of the levee by FEMA is required for issuance of a Letter of Map Revision (LOMR) that modifies Flood Insurance Rate Maps through the National Flood Insurance Program. Certification, and subsequent flood map revisions, could result in reduction and/or elimination of flood insurance requirements or costs for property owners protected by the project.

¹ This SDEIS studies proposed realignment for portions of Phase 3B south of the Riviera Club, in addition to other proposed modifications.

² The portion of Phase 3B from Kessler Boulevard south to and through the Riviera Club was addressed in the 1996 EIS. Its construction does not preclude implementation of the alternative alignments described in the SDEIS, which start at the lower (south) end of the Riviera Club property. These two sections comprise Section 3B.

³ The purpose of the Indianapolis North Flood Damage Reduction Project is to provide the affected area protection at a minimum level of an annual 0.35 percent chance of being exceeded; this is commonly referred to as the 300-year level of protection.

Based on our review of the document, EPA has assigned this Draft Supplemental EIS a rating of “EC-2” (**Environmental Concerns – Insufficient Information**). EPA has assigned this rating based on several issues: 1) information discrepancies; 2) insufficient information concerning mitigation for wetland and water resource impacts; 3) wetland and floodplain concerns; and 4) insufficient information on potential issues to historic properties. We recommend that USACE address these issues further in the Final Supplemental EIS. A summary of the rating system used in EPA’s evaluation of the document is enclosed with this correspondence. EPA’s comments on the SDEIS are as follows:

INFORMATION DISCREPANCIES/PROJECT ALTERNATIVES

1. The SDEIS stated that the project proposes to provide a minimum 300-year level of flood protection. However, the 2011 EA states that the project would “provide a minimum level of flood protection to an annual one percent chance of exceedance (100-year level of protection).”

Recommendation: In the Supplemental Final EIS (SFEIS), EPA recommends that USACE clarify the narrative change from 100-year protection to 300-year protection.

2. The SDEIS states that the Rocky Ripple alternative was dropped from further consideration due to cost (\$50,300,000 estimated) and because the benefit/cost ratio of this alternative was estimated to be less than 1:1. The SDEIS did not include an alternative proposing full buyout of homes within the Rocky Ripple area; it is unclear to EPA why this was not studied as a potential alternative.

Recommendation: In the Supplemental Final EIS (SFEIS), EPA recommends that USACE provide additional information on why buyouts were not considered as a feasible alternative to be studied.

ENVIRONMENTAL IMPACTS/MITIGATION

1. The SDEIS states that mitigation committed to in the 1997 ROD is no longer feasible and that changes to the environment and to the project scope will require more mitigation acreage than was initially planned. As such, (a) new environmental mitigation site(s) must be developed. However, Section 4.0 (Environmental Mitigation) of the SDEIS did not contain any conceptual mitigation.

Recommendation: EPA cannot provide substantive comments on proposed mitigation as no information on mitigation was provided in the SDEIS. The SFEIS should include detailed conceptual mitigation information, including location maps, narrative descriptions, ratio information, planting plans, maintenance and monitoring information, and information on how mitigation has been coordinated with other agencies such as the Indiana Department of Environmental Management (IDEM), the Indiana Department of Natural Resources (IDNR), and the U.S. Fish and Wildlife Service (USFWS). Discussion of how the mitigation site(s) follow requirements of the USACE Mitigation Rule (33 CFR 332) should also be included. Mitigation information for all types of impacts, including wetland, stream, and open water, should be discussed

in the Final Supplemental EIS. Mitigation information provided should enable reviewers to understand whether proposed mitigation projects will be a good fit to replace functions and values that will be lost as a result of the proposed project.

2. There is no evidence in the SDEIS that any updated environmental surveys (for fish, wildlife resources, wetlands, and trees/forested acreage) have been completed since the 1996 EIS/1997 ROD. Furthermore, it is unclear whether or not the hydraulic data (on which the extent of the 100-year flood event line is determined) is out of date. EPA assumes this 1990s data is what is still being utilized to confirm/calculate flood reduction benefits.

Recommendation: EPA recommends that USACE commit to, and undertake, updated fish and wildlife surveys, tree surveys, and a wetland delineation, and provide this information in the SFEIS. EPA also requests additional information on the date(s) of hydraulic data utilized in calculations made for modifications proposed in the SDEIS.

3. The Canal is the primary source of drinking water for the City of Indianapolis. This fact was not mentioned in the SDEIS. It would appear that there is the potential for impacts to drinking water with the proposed project; Citizens Water, which pulls about 60% of Indianapolis' drinking water supply from the Canal, has voiced concerns about the proposed project, saying, "We feel that the project potentially endangers the Central Canal...and also could unnecessarily interrupt sanitary sewer service to approximately 5,000 households."⁴ Furthermore, the project as proposed, in a flood event, would allow for flood water and septic overflows (from the Rocky Ripple neighborhood) to directly enter the Canal as the floodwall would put the Canal drinking water source essentially on the "wrong side of the flood."

Recommendation: Additional information on the potential for water quality impacts, including drinking water impacts, reliability, and safety, should be added to the SFEIS.

ENVIRONMENTAL PERMITTING

1. Section 9.8 of the SDEIS does not include a full list of required state and local approvals required to implement the project.

Recommendation: EPA recommends that this section be expanded to list all required permits (and their issuing agencies) that will be required for project implementation.

PUBLIC COMMENTS

1. The SDEIS states that numerous comments were received on the 2011 EA, and that modifications were made to address concerns. However, the SDEIS did not contain an appendix of the actual comment letters (or a summary therein) nor did it contain USACE responses to comments received. Furthermore, the SDEIS did not contain information on how (or what) modifications were made to project alternatives by USACE, due to comments

⁴ Bores, Michael. (August 23, 2012). Rocky Ripple, Butler-Tarkington residents, Citizens Water object to proposed flood wall. The Indianapolis Star. Retrieved from <http://www.indystar.com/article/20120823/NEWS/120823025/Rocky-Ripple-Butler-Tarkington-residents-Citizens-Water-object-proposed-flood-wall>.

received on the 2011 EA. It is not clear if these modifications were made solely due to comments received on the 2011 EA or if the modifications were made for other reasons.

Recommendation: In the SFEIS, EPA recommends that the following information be added to the document:

- Additional narrative information on what modifications were made to project alternatives based on comments to the 2011 EA or to the SDEIS;
- An appendix of received comments on the 2011 EA, including USACE responses to these comments; and
- An appendix of received comments on the SDEIS, including USACE responses to these comments.

WETLANDS AND FLOODPLAINS

1. The SDEIS states that USFWS has reported “no known wetlands” in the project vicinity, and that the National Wetland Inventory (NWI) maps do not show wetlands in the project vicinity. However, comments on the SDEIS made by the USFWS (in a U.S. Department of the Interior [USDOI] letter dated August 9, 2012) state, “The National Wetland Inventory maps depict part of the area between the existing levee and the river as wetland.” Information provided by the SDEIS is contradictory to information provided in the August 2012 USDOI letter. Furthermore, information provided by USACE does not conclusively determine the presence (or absence) of regulated waters, including wetlands, within the project’s footprint.

Recommendation: A formal wetland delineation (or field investigation by USACE regulatory staff) should be completed in order to know definitively where wetlands (and streams and other regulated Waters of the United States) are located. These results should be included in the SFEIS and taken into account during development of mitigation measures. If applicable, EPA recommends that figures be provided in the SFEIS to show any newly-delineated wetland areas and to include stream centerlines and linear footages of stream impacts.

2. The Environmental Consequences (Section 6.0 and following) section of the SDEIS, in Section 6.2 - Floodplains, states, “Completion of the project under any alternative would reduce floodplain area available for flood storage.” No additional information on specific floodplain impacts (acreage, etc.) broken out by alternative was provided. Additionally, no information on specific environmental consequences that could be expected due to project implementation was provided, nor was any discussion of environmental permitting for floodplain impacts provided. Furthermore, no discussion of floodplain mitigation requirements, or mitigation proposals, was provided.

Recommendation: EPA recommends that this section be expanded to provide additional information on specific floodplain impacts (acreage, etc.) broken out by alternative, information on specific environmental consequences that could be expected due to project implementation, and a discussion of environmental permitting requirements. The document should also discuss permitting requirements for floodplain impacts, mitigation requirements, and mitigation proposals (or commitments) for floodplain impacts.

3. EPA is aware that an IDNR Construction in a Floodway Permit (FW-19540) was issued on May 30, 2001. The SDEIS did not mention this permit, whether or not it is still valid, or how the proposed project modifications will affect this previously-issued permit.

Recommendation: In the SFEIS, EPA recommends that USACE add narrative information on required coordination with IDNR with regard to permit modifications and mitigation requirements.

4. The Cumulative Impacts section of the SDEIS (starting on p.63) did not discuss cumulative impacts to wetlands or floodplains.

Recommendation: In the SFEIS, EPA recommends that the cumulative impacts section be expanded to account for these environments.

5. The project will require the placement of fill material into Waters of the U.S./Waters of the State; however, the SDEIS did not include a Section 404(b)(1) evaluation. EPA understands that a 404(b)(1) evaluation was completed for the 1996 EIS; however, that evaluation was completed 18 years ago and should be revisited.

Recommendation: In the SFEIS, EPA recommends that USACE include an updated Section 404(b)(1) evaluation for the proposed placement of fill material into Waters of the U.S. as would be required by the proposed project modifications. EPA also recommends that the SFEIS include information on how the Section 404(b)(1) guidelines (avoidance, minimization, mitigation) have been applied with regard to both stream and wetland impacts.

HISTORIC PROPERTIES

1. The SDEIS states, “effects to historic properties include the 19th Century Citizens Water Canal and towpath and various properties related to Butler University...” No additional information on coordination with the Indiana State Historic Preservation Office (SHPO) was provided.

Recommendation: In the SFEIS, please provide copies of all correspondence sent to and received from the SHPO regarding consultation for adverse impacts to historic properties or properties eligible for listing on the National Register of Historic Places. (NRHP).

2. The SDEIS is unclear on the defined Area of Potential Effect (APE) for this project, although it is clear that SHPO consultation is required for both the modifications to the alignment of Phase 3B of the levee project as well as for proposed vegetation clearing. Furthermore, the SDEIS states on page 54 “The primary cultural resource affected by this alignment is the 19th century Citizens Water Canal and its two restored historic walking bridges.” The SDEIS is not clear on how these resources may be affected, whether or not the effects are considered adverse, and how any adverse effects on historic properties may be avoided, reduced, or mitigated.

Recommendation: In the SFEIS, please provide additional information on the type of impacts to listed resources, the type of impact(s) (adverse or not), and how adverse

impacts will be avoided, reduced, or mitigated. If a Memorandum of Agreement has been signed with the SHPO regarding adverse impacts, please include that document with the SFEIS.

3. The SDEIS did not mention potential impacts to Holcomb Gardens (Gardens) on the Butler University property. Furthermore, it is not clear if the Gardens are formally listed on the NRHP or are eligible for listing on the NRHP.

Recommendation: In the SFEIS, EPA recommends that additional narrative discussion on potential impacts to the Holcomb Gardens be added to the document. Information on the listing or eligibility for listing on the NRHP should also be discussed, in addition to whether or not the Gardens will be affected by the proposed project.

To further minimize impacts to wetlands and sensitive aquatic habitats, EPA recommends the following measures be implemented during construction and committed to in both the SFEIS and the forthcoming ROD:

- Construction in winter/frozen conditions, if/when feasible;
- Minimized widths of temporary access roads/paths;
- Use of removable materials for construction of temporary access roads/paths (e.g. timber mats) in wetland areas in lieu of “fill” materials such as stone, riprap, or wood chips;
- Use of timber mats to distribute the weight of construction equipment in order to minimize soil rutting and compaction;
- Use of vehicles and construction equipment with wide tires or rubberized tracks, or low ground-pressure equipment, to further minimize wetland impacts during construction;
- Use of long-reach excavators, where appropriate, to avoid driving, traversing, or staging in wetland areas; and
- Use of cofferdams and dam/pump arounds to isolate work areas in the Canal and White River from active flow.

In addition to minimizing wetland, lake, and stream impacts through thoughtful design of final construction plans, EPA recommends that you commit to the following measures in the SFEIS and ROD for implementation during construction:

- Complying with all applicable federal, state, and local laws and regulations that control the prevention of pollution of the environment, including those related to the introduction or spread of invasive species or pathogens in waterways;
- Conducting and scheduling work operations to avoid or minimize siltation of streams, lakes, and wetlands;
- Avoiding driving into/crossing actively flowing streams or operating machinery on the bed of actively flowing streams unless specifically approved to do so by all appropriate regulatory agencies;
- Removing all steel and all concrete pieces or other debris larger than 5 inches in any dimension that fall into any stream, lake, or wetlands;
- Installing non-sediment producing dikes, cofferdams, or other barriers to separate work areas or pits from, and to keep sediment from entering, lakes, wetlands, or actively flowing streams (if work areas or pits are located in or adjacent to a work area or pit); maintaining these

barriers during construction to minimize the siltation or filling of the waterway or wetland, and removing all barriers post-construction.

Please send one paper copy and one CD-ROM copy of the SFEIS to my attention once it becomes available. If you have any questions about this letter, please contact Ms. Liz Pelloso, PWS, of my staff at 312-886-7425 or via email at pelloso.elizabeth@epa.gov.

Sincerely,



Kenneth A. Westlake, Chief
NEPA Implementation Section
Office of Enforcement and Compliance Assurance

Enclosure: *Summary of EIS Rating Definitions*

cc: Wm. Michael Turner, USACE-Louisville District (w/enclosure)
Greg McKay, USACE-Louisville District (w/enclosure)
Laban Lindley, USACE-Louisville District (w/enclosure)
Mike Massone, Indianapolis DPW (w/enclosure)
Samantha Groce, IDEM-401 WQC (w/enclosure)
Markita Shepherdson, IDNR-Division of Water (w/enclosure)
Lindsay Lindren, Citizens Water (w/enclosure)
Ben Hunter, Butler University (w/enclosure)

SUMMARY OF RATING DEFINITIONS AND FOLLOW UP ACTION¹

Environmental Impact of the Action

LO - Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC - Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impacts. EPA would like to work with the lead agency to reduce these impacts.

EO - Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU - Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1 - Adequate

The EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collecting is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 - Insufficient Information

The draft EIS does not contain sufficient information for the EPA to fully assess the environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3 - Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

¹ From EPA Manual 1640: Policy and Procedures for the Review of the Federal Actions Impacting the Environment